

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DOCKET NO. 05-10545RGS

**LINDA MALLOY, Administratrix of the Estate
of Willie L. Murraray, Jr. Mother, Guardian and
Next Friend, Willie L. Murray, III.
Plaintiff,**

v.

**CITY OF BOSTON AND OFFICER SHAWN
WEST, A Municipal Employee of the City of Boston
and a Member of the Boston Police Department,
Defendants**

DEFENDANT WEST'S ANSWER AND JURY CLAIM

The defendant, Shawn West, answers the plaintiff's complaint as follows:

The defendant neither admits nor denies the first unnumbered paragraph as same is a statement of introduction. To the extent that factual assertions are made against him, the defendant denies same.

1. The defendant has insufficient information to either admit or deny the allegations contained in paragraph 1.
2. The defendant neither admits nor denies the allegations contained in paragraph 2 as same are not addressed to him.
3. The defendant admits that he is a Boston Police Officer presently assigned to Area B2 in Boston.
4. The defendant admits the allegations contained in paragraph 4.
5. The defendant admits the allegations contained in paragraph 5.
6. The defendant admits that he was working as a police officer assigned to Area B2.
7. The defendant denies the allegations contained in paragraph 7.
8. The defendant denies the allegations contained in paragraph 8.
9. The defendant denies the allegations contained in paragraph 9.

10. The defendant admits only that the Murray vehicle contained the plaintiff decedant and another individual.
11. The defendant denies the allegations contained in paragraph 11.
12. The defendant denies the allegations contained in paragraph 12.
13. The defendant denies the allegations contained in paragraph 13.
14. The defendant denies the allegations contained in paragraph 14.
15. The defendant denies the allegations contained in paragraph 15.
16. The defendant admits that Murray was killed. The defendant denies the remaining allegations contained in 16.
17. The defendant denies the allegations contained in paragraph 17.
18. The defendant denies the allegations contained in paragraph 18.
19. The defendant denies the allegations contained in paragraph 19.
20. The defendant denies the allegations contained in paragraph 20.
21. The defendant denies the allegations contained in paragraph 21.
22. The defendant denies the allegations contained in paragraph 22.
23. The defendant denies the allegations contained in paragraph 23.
24. The defendant neither admits nor denies the allegations contained in paragraph 24 as same are not addressed to him.
25. The defendant neither admits nor denies the allegations contained in paragraph 25 as same are not addressed to him.

Count I

26. The defendant reasserts his responses to paragraphs 1-26 above as if specifically restated herein.
- 27-34. The defendant neither admits nor denies the allegations contained in paragraphs 27-34 as same are not addressed to him.

Count II

35. The defendant reasserts his responses to paragraphs 1-34 above as if specifically restated herein.
36. The defendant admits that he was acting under color of law as a Boston Police Officer on the referenced date.

- 37. The defendant denies the allegations contained in paragraph 37.
- 38. The defendant denies the allegations contained in paragraph 38.
- 39. The defendant denies the allegations contained in paragraph 39.

Count III

- 40. The defendant reasserts his responses to paragraphs 1-39 above as if specifically restated herein.
- 41-44. The defendant neither admits nor denies the allegations contained in paragraphs 41-44 as same are not addressed to him.

Wherefore, the defendant demands judgement in his favor together with costs and attorneys fees.

DEMAND FOR JURY TRIAL

The defendant requests a trial by jury on all counts.

AFFIRMATIVE DEFENSES

First

The plaintiff has failed to state a claim for which relief may be granted.

Second

The individual defendant acted objectively reasonably under the circumstances and is qualifiedly immune from liability.

Third

The defendant acted with probable cause and legal justification.

Fourth

Any alleged injuries or damages sustained by the plaintiff was caused by a person or persons for whom the defendant is not legally responsible.

Fifth

Those counts sounding in negligence directed against the individual defendant are barred by the operation of MGL c. 258, s. 2 et seq.

Sixth

The plaintiff has failed to commence this action within the applicable statute of limitations and thus their claims are time barred.

Seventh

The plaintiff has failed to effectuate proper service of process upon the defendant.

Defendant, Paul Davies,
By his attorney,

/s/ Douglas I. Louison
Douglas I. Louison (BBO # 545191)
MERRICK, LOUISON & COSTELLO
67 Batterymarch Street
Boston, MA 02110
(617) 439-0305

CERTIFICATE OF SERVICE

I, Douglas I. Louison, hereby certify that on the 26th day of April , 2005, I served the foregoing by causing a copy to be mailed, postage prepaid, directed to **Edward F. McLaughlin**, 6 Beacon Street, Suite 910, Boston, MA 02108 and **Amy E. Ambarik**, City of Boston Law Department, City Hall, Room 615, Boston, MA 02201

/s/ Douglas I. Louison
Douglas I. Louison